IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 7226 OF 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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AHMEDKHAN NURMOHMED NAGORI - Petitioner(s)
Versus
COLLECTOR OF GANDHINAGAR & ANR. - Respondent(s)

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Appearance :
Shri G.M. Amin for Petitioner(s).
Shri M.R. Mengdey, Assistant Government Pleader for Respondent(s).

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 26/04/2007

ORAL JUDGMENT

The parties are finally heard.

2. By this Writ Application, the present petitioner, being

aggrieved by order dated 18th October, 1998 passed by the Collector, Gandhinagar, bearing No.41/U.A.A.N.N.V.3062/98, rejecting the petitioner's application dated 26th March, 1990 for allotment of the plot on the ground that it was received in the Office of the Collector on 10th April, 1990, that is, after the period for making the application was lapsed is before this Court.

3. The Government, to provide some solace to its officers and employees from time to time, issued certain Circulars on the basis of the Government Resolutions, that the residential land would be allotted in favour of such officers/employees, who have completed more than five years' service with the Government. Condition No.3 of the Circular dated 23rd January, 1990 (Annexure-F) clearly provided that only those Officers would be entitled to allotment of the residential plots who submit their applications on or before 31st March, 1990.

4. The petitioner sent his application on 26th March, 1990 under the registered post, hoping that the application would reach the competent authority on or before 31st March, 1990. It appears that no orders on the applications were passed and no information was sent to the petitioner. Therefore, the petitioner sent reminders on 7th January, 1995, 3rd September, 1995 and 16th March, 1998. The Collector, Gandhinagar *vide* his letter-cum-order dated 18th October, 1998 informed the petitioner about the rejection of the application on the ground that the application was not received in the office well within time, but, was received on 10th April, 1990.

Being aggrieved by the said order, the petitioner is before this Court.

5. Shri Amin, learned Counsel for the petitioner, submits that once the petitioner sent his application on 26th March, 1990, then, that would speak of his *bona fides* and if for some reason or the other, the application could not reach the authority on or before 31st March, 1990, the petitioner's right would not be adversely affected. He also submitted that the persons, who were juniors to the petitioner, and the persons, who had even otherwise come on deputation, have been allotted some residential plots. Therefore, the petitioner could not be singled out on the ground that the application was received on 10th April, 1990.

6. Shri Mengdey, learned Assistant government Pleader, on the other hand, submits that Condition No.3 clearly provided that such an application should be made to the authority on or before 31st March, 1990, which means that the application should reach the authority on or before 31st March, 1990. According to him, sending of the application on 26th March, 1990 would not serve the purpose if the application was received after the cut off date.

7. Rule (3) for allotment of the land clearly provides that the persons, who make their applications on or before 31st March, 1990, shall only be entitled to allotment of the land. When the law says that one has to make an application to the authority before the cut off date, then, that would only mean that one should submit the application to the authority on or before such date. In the present case, the petitioner did not make the application or did not submit the application to the authority on or before 31st March, 1990, but, simply sent the application to the authority. Had the application reached the authority on or before 31st March, 1990, the petitioner's case certainly could be considered, but, if the application lost its way in the transit and reached the destination

after the cut off date, then, the delay would be on the part of the petitioner, who instead of making the personal application, sent it by registered post.

8. The Collector was absolutely justified in rejecting the application. I find no reason to interfere.

9. The petition deserves to and is, accordingly, dismissed. Rule is discharged. No costs.

[R.S.Garg, J.]

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